

# SUPREME COURT OF WISCONSIN

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Case No.: 97-3238-W

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Complete Title  
of Case:

State of Wisconsin ex rel. James D. Luedtke,  
Petitioner,  
v.  
Daniel Bertrand,  
Respondent-Petitioner.

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ON REVIEW OF A DECISION OF THE COURT OF APPEALS  
Reported at: 220 Wis. 2d 574, 583 N.W.2d 858  
(Ct. App. 1998, Published)

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Opinion Filed: May 28, 1999  
Submitted on Briefs:  
Oral Argument: April 8, 1999

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Source of APPEAL  
COURT: Circuit  
COUNTY: Dane  
JUDGE: Gerald C. Nichol

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JUSTICES:  
Concurred:  
Dissented:  
Not Participating: Wilcox, J., did not participate.

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ATTORNEYS: For the respondent-petitioner the cause was argued by *Jody J. Schmelzer*, assistant attorney general, with whom on the briefs was *Charles D. Hoornstra*, assistant attorney general and *James D. Doyle*, attorney general.

For the petitioner there was a brief by *Stephen M. Compton* and *Brennan, Steil, Basting & MacDougall, S.C.*, Janesville and oral argument by *Stephen M. Compton*.

This opinion is subject to further editing and modification. The final version will appear in the bound volume of the official reports.

**No. 97-3238-W**

**STATE OF WISCONSIN**

**:**

**IN SUPREME COURT**

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State of Wisconsin ex rel. James D.  
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**FILED**

**MAY 28, 1999**

Marilyn L. Graves  
Clerk of Supreme Court  
Madison, WI

REVIEW of a decision of the Court of Appeals. *Affirmed.*

¶1 PER CURIAM. The court is equally divided on whether to affirm or reverse the published decision of the court of appeals, State ex rel. Luedtke v. Bertrand, 220 Wis. 2d 574, 583 N.W.2d 858 (Ct. App. 1998). Chief Justice Shirley S. Abrahamson and Justices Ann Walsh Bradley and David T. Prosser would affirm; Justices Donald W. Steinmetz, William A. Bablitch and N. Patrick Crooks would reverse. Justice Jon P. Wilcox withdrew from participation.

¶2 Accordingly, the decision of the court of appeals is affirmed.

*By the Court.*—The decision of the court of appeals is affirmed.

